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 and Seth Ravin

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ORACLE USA, Inc., a Colorado corporation;  
ORACLE AMERICA, INC., a Delaware  
corporation; and ORACLE INTERNATIONAL  
CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;  
and SETH RAVIN, an individual,

Defendants.

Case No. 2:10-cv-0106-LRH-PAL

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT**

DATE: November 30, 2010  
TIME: 9:00 a.m.  
PLACE: Courtroom 3B  
JUDGE: Magistrate Peggy A. Leen

1 Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corp.  
 2 (collectively, “Oracle” or “Plaintiffs”) and Defendants Rimini Street, Inc. (“Rimini Street”) and  
 3 Seth Ravin (“Ravin”) (together, “Rimini” or “Defendants”) jointly submit this Case Management  
 4 Conference Statement in advance of the November 30, 2010 Case Management Conference to  
 5 provide the Court with a status report of the pending matters. The parties are progressing with  
 6 discovery in accordance with the schedule entered by the Court on September 21, 2010 (Dkt  
 7 109).

8 As there are no issues that require the Court’s attention, and as discovery is proceeding in  
 9 accordance with the schedule set by the Court, the parties respectfully request that the Court  
 10 issue an Order continuing the Case Management Conference for an additional forty-five (45)  
 11 days.

## 12 **I. PENDING MOTIONS AND DISCOVERY DISPUTES**

13 There are no currently pending motions. On October 29, 2010, Judge Hicks issued an  
 14 Order granting in part and denying in part Oracle’s June 10, 2010 Motion to Dismiss Rimini’s  
 15 First Amended Counterclaim and Strike Affirmative Defense (Dkt 111) (the “October 29  
 16 Order”). The October 29 Order denied Oracle’s motion to dismiss the entirety of Rimini’s first  
 17 counterclaim, which alleges defamation, but dismissed the defamation claim insofar as it was  
 18 based on alleged statements regarding Rimini’s future financial stability. The October 29 Order  
 19 dismissed Rimini’s second counterclaim, which alleges copyright misuse, and struck Rimini’s  
 20 fourth affirmative defense, which also alleges copyright misuse. Finally, the Order denied  
 21 Oracle’s motion to dismiss the entirety of Rimini’s third counterclaim, alleging violations of  
 22 California Business and Professions Code § 17200, but dismissed the claim insofar as it was  
 23 based on allegations of copyright misuse or allegations of defamation regarding Rimini’s future  
 24 financial stability..

## 25 **II. STATE OF THE PLEADINGS**

26 Both parties have answered the claims that have not been dismissed in advance of the  
 27 Case Management Conference.

28 On August 13, 2010, the Court denied both Rimini Street’s and Ravin’s separate motions

to dismiss the First Amended Complaint, except for Plaintiffs' claim for negligent interference with prospective economic advantage, for which the motions were granted. (Dkt. 78)

On September 7, 2010, Defendants filed an Answer and an unopposed motion, pursuant to Rule (6)(b), for leave to file an Answer outside the time specified by the Federal Rules of Civil Procedure.

Following the entry of the October 29 Order granting in part and denying in part Oracle's Motion to Dismiss Rimini's First Amended Counterclaim, the parties agreed on November 8 to extend Oracle's time to respond until November 26, 2010.

### **III. DISCOVERY PROGRESS**

Since the last Case Management Conference on September 10, 2010, the parties have made the following progress in discovery:

#### **A. Discovery From and Produced By Plaintiffs.**

**Documents.** Defendants have served two sets of Requests for Documents, with a total of 96 separate requests. Plaintiffs have responded to both sets.

Since the last Case Management Conference, Plaintiffs have produced more than 27,000 pages of documents, including customer contracts (license agreements and software maintenance agreements) and related documents and correspondence, organizational charts, document retention policies, documents relating to copyright authorship and ownership and other software and copyright-related documentation, including copyright registrations, technical support policies and terms of use of Oracle's technical support websites, and financial data and damages-related documents. Plaintiffs have also produced additional software CDs and hard drives of log files and 425 customer-specific reports regarding customer licensing, referred to as OKI3 Reports.

Plaintiffs expect to produce approximately 3,400 additional documents by December 10. These documents will include additional customer contracts and related documents, documents relating to the copyrights and software at issue, including software development, financial data and damage-related documents.

1 Plaintiffs are currently reviewing (for responsiveness and privilege) documents of the 33  
2 initially-identified production custodians (including server emails, laptop/desktop images, and  
3 documents from network share files), as well as additional customer contracts and related  
4 documents. Plaintiffs expect to make a significant production of these documents in December  
5 with additional productions to follow in January. The parties are near agreement on the identity  
6 of additional custodians, and production of documents from those custodians will follow.

7 **Interrogatories.** Defendants have served one set of Interrogatories, consisting of twelve  
8 separate interrogatories, to which Plaintiffs have responded.

9 **Depositions.** Defendants have not noticed or taken any depositions of Plaintiffs.

10 **B. Discovery Sought From and Produced By Defendants.**

11 **Documents.** Plaintiffs have served two sets of Requests for Documents on Defendant  
12 Rimini (consisting of a total of 50 separate requests) and one set of Requests for Documents on  
13 Defendant Ravin (consisting of one request).

14 Since the last Case Management Conference, Defendants have produced more than  
15 twenty thousand documents totaling more than three hundred thousand pages, including client  
16 contracts, correspondence and emails between Rimini Street and its clients, documents regarding  
17 policies and procedures related to Rimini Street's business activities, documents related to  
18 investments in Rimini Street, documents related to maintenance end dates and download  
19 authorizations, and documents related to customized fixes and tax and regulatory updates.

20 Defendants are continuing to review custodial documents for both privilege and  
21 responsiveness, and will likely make a significant document production before the end of the  
22 year. The parties are nearing agreement on the identity of additional custodians, and production  
23 of documents from those custodians will follow.

24 **Interrogatories.** Plaintiffs have served one set of Interrogatories, consisting of fourteen  
25 separate interrogatories, to which Defendants have responded.

26 **Depositions.** Plaintiffs have not noticed or taken any depositions of Defendants since the  
27 last Case Management Conference.

**C. Third Party Discovery**

**1. Customers**

Oracle has served subpoenas on approximately 25 of Rimini Street's customers. The majority of the subpoenas had a return date of Tuesday, November 16. To date, Oracle has received responses from 12 customers.

The subpoenas seek documents concerning several subjects related to Oracle's claims, such as: how Rimini provides software and support materials to that customer, whether Rimini uses unauthorized crawlers or scrapers to obtain Oracle software for that customer, agreements between the customer and Rimini that Rimini contends in its answer authorize some or all of its conduct, customer login credentials that Rimini used to access Oracle's computer systems, and whether the customer provided Rimini with Oracle source code or installation media. Together with the subpoena, Oracle has served each customer with a copy of the protective order in this action, in the event that the customer believes responsive documents may be confidential.

**2. Public Entities**

In connection with this case, Oracle has made state "sunshine act" requests of 44 public entities that may have had significant contact with Rimini. Substantive productions have been received from almost half these entities. Oracle and Rimini agreed that the protective order would govern sunshine act productions. This agreement protects Rimini's confidentiality interests and reduces the burden on entities whose states require redacting certain material. Under the agreed protocol, Oracle's e-discovery vendor forwards Bates-stamped sunshine act productions to Rimini promptly after receipt. Rimini then forwards its confidentiality designations to Oracle within ten days. Oracle's review of the sunshine act materials is ongoing.

**3. Rimini Street Investors**

On September 8, 2010, Oracle served subpoenas on Mark Scully and Boathouse Communications Partners, LLC. Mark Scully responded to the subpoena on September 21, 2010 and produced 617 pages of documents. Boathouse Communications Partners, LLC responded to the subpoena on September 24, 2010 and produced 0 pages of documents.

On October 18, 2010, Oracle served subpoenas on Kellogg Capital Group and Dean Pohl. Kellogg Capital Group responded to the subpoena on October 19, 2010 and produced 1,097 pages of documents. Dean Pohl did not separately respond to the subpoena.

In addition, Oracle continues to negotiate with Adams Street Partners concerning the objections to Oracle's subpoena that Adams Street Partners served on June 25, 2010.

No other third party discovery has been conducted to date.

#### IV. OUTSTANDING DISCOVERY ISSUES

The parties have worked together to resolve discovery issues without judicial intervention, and have no outstanding discovery disputes that require the Court's attention at this time. The parties have reached agreement concerning the number of custodians from whom each side will produce documents and have exchanged lists of proposed search terms that they will use to screen custodians' documents. The parties have also agreed to initial specifications governing Rimini's production of systems data, such as client environments. In addition, pursuant to the Court's September 21, 2010 Order, the parties have made arrangements to make forensic images of Rimini custodians' computers.

As there are no issues that require the Court's attention, and as discovery is proceeding in accordance with the schedule set by the Court, the parties respectfully request that the Court issue an Order continuing the Case Management Conference for an additional forty-five (45) days.

Dated: November 24, 2010

BOIES, SCHILLER & FLEXNER LLP

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**ATTESTATION OF FILER**

The signatories to this document are myself and Robert Reckers and I have obtained Mr. Reckers's concurrence to file this document on his behalf.

Dated: November 24, 2010

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 24<sup>th</sup> day of November, 2010, I electronically transmitted the foregoing JOINT CASE MANAGEMENT CONFERENCE STATEMENT to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel in this matter; all counsel being registered to receive Electronic Filing.

/s/ Jason Lipton

An employee of Boies, Schiller & Flexner LLP